

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-HC-2148

| | | |
|---------------------------|-------------|-------|
| UNITED STATES OF AMERICA, |) | |
| | Petitioner, |) |
| v. |) | ORDER |
| |) | |
| JERRY T. ROGERS, |) | |
| | Respondent. |) |

This matter is before the court on two motions: (1) respondent's 11 September 2007 motion to dismiss and (2) an 18 June 2010 motion by counsel for respondent to withdraw. The motions are ripe for disposition.

With regard to the motion to dismiss, in light of the Supreme Court's opinion in United States v. Comstock, ___ U.S. ___, 130 S. Ct. 1949 (2010), the motion is DENIED WITHOUT PREJUDICE. Respondent may renew his motion to dismiss to address "any claim that [18 U.S.C. § 4248] or its application denies equal protection of the laws, procedural or substantive due process, or any other rights guaranteed by the Constitution." Comstock, 130 S. Ct. at 1965.

With regard to the motion to withdraw, the motion indicates that respondent was served with a copy of the motion. Respondent has not filed any response, and the time within which to do so has run. The government filed a response, indicating it has no objection to the motion. The motion also indicates that "Office of the Federal Public Defender has identified qualified substitute counsel who is willing to accept an appointment from this Court to represent" the respondent. (Mot. Withdraw at 2.) For the reasons stated in the motion it is ALLOWED, and the Federal Public Defender is DIRECTED to refer this case to substitute counsel, who shall enter a Notice of Appearance within

five days of the date of this order.

This 20 July 2010.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is positioned above a horizontal line.

W. Earl Britt
Senior U.S. District Judge